

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNIVERSAL BONDING INSURANCE)	
COMPANY,)	
)	
Plaintiff,)	
)	
v.)	No. 3:03-CV-453
)	(SHIRLEY)
MIDSTATE CONSTRUCTION, LLC, et al.,)	
)	
Defendants.)	
)	

MEMORANDUM AND ORDER

This case is before the undersigned pursuant to 28 U.S.C. § 636©, Rule 73(b) of the Federal Rules of Civil Procedure, and the consent of the parties, for all further proceedings, including entry of judgment. [Doc. 59]. On December 18, 2006, Defendants Midstate and the Pardues filed a motion entitled “Second Rebuttal by the Pardues, et al, In Support of Midstate’s Motion to Dismiss Motions for Summary Judgment Filed by Plaintiff and by the Patels, et al and Motion for Summary Judgment against Universal and the Patels” [Doc. 102]. In response and on the same day, Plaintiff filed a Motion to Strike Defendants’ motion [Doc, 103].

According to the Amended Scheduling Order [Doc.65] entered by this Court on September 15, 2006, all dispositive motions were due on or before September 29, 2006. As this date has long passed and Defendants were not granted leave to file a motion for summary judgment at this late date, Defendants’ Motion for Summary Judgment [Doc. 102] is untimely filed. Accordingly, Plaintiff’s Motion to Strike [Doc. 103] is **GRANTED** as it pertains to Defendants’ Motion for Summary Judgment [Doc. 102].

This Court notes Plaintiff's filed a motion for summary judgment [Doc. 67] on September 27, 2006, Cross-Complainants filed a motion for partial summary judgment [Doc. 73] on September 29, 2006, Defendants replied to each motion [Docs. 89, 91], and Plaintiffs/Cross-Complainants responded [Docs. 100, 101]. No further pleadings pertaining to summary judgment are allowed without this Court granting a party leave to file further pleadings. As no order has been entered granting Defendants leave to file further pleadings, Plaintiff's Second Rebuttal [Doc. 102] is also improper. Therefore, Plaintiff's Motion to Strike [Doc. 103] is **GRANTED** as it pertains to Defendants' Second Rebuttal [Doc. 102].

Additionally, the Court would like to note that this order is limited to the two, aforementioned motions [Docs. 102, 103]. All further pending motions will be taken up on **January 8, 2007, at 9:00 a.m.**, before the undersigned. For the reasons stated above, Plaintiff's Motion to Strike [Doc. 103] is **GRANTED**. Accordingly, Defendants' Motion to Dismiss and Motion for Summary Judgment [Doc. 102] is **ORDERED STRICKEN from the record**.

IT IS SO ORDERED.

ENTER:

s/ C. Clifford Shirley, Jr.

United States Magistrate Judge